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# A BILL FOR AN ACT

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RELATING TO CERTIFICATES OF BIRTH.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. Section 338-17.7, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       **"§338-17.7 Establishment of new certificates of birth,**  
4 **when.** (a) The department of health shall establish, in the  
5 following circumstances, a new certificate of birth for a person  
6 born in this State who already has a birth certificate filed  
7 with the department and who is referred to below as the "birth  
8 registrant":

9       (1) Upon receipt of an affidavit of paternity, a court  
10 order establishing paternity, or a certificate of  
11 marriage establishing the marriage of the natural  
12 parents to each other, together with a request from  
13 the birth registrant, or the birth registrant's parent  
14 or other person having legal custody of the birth  
15 registrant, that a new birth certificate be prepared  
16 because previously recorded information has been  
17 altered pursuant to law;



1 (2) Upon receipt of a certified copy of a final order,  
2 judgment, or decree of a court of competent  
3 jurisdiction that determined the nonexistence of a  
4 parent and child relationship between a person  
5 identified as a parent on the birth certificate on  
6 file and the birth registrant;

7 (3) Upon receipt of a certified copy of a final adoption  
8 decree, or of an abstract of the decree, pursuant to  
9 sections 338-20 and 578-14;

10 (4) Upon receipt of ~~[an affidavit of a physician that the~~  
11 ~~physician has examined the birth registrant and has~~  
12 ~~determined the following:~~

13 ~~(A) The birth registrant's sex designation was~~  
14 ~~entered incorrectly on the birth registrant's~~  
15 ~~birth certificate; or~~

16 ~~(B) The birth registrant has had a sex change~~  
17 ~~operation and the sex designation on the birth~~  
18 ~~registrant's birth certificate is no longer~~  
19 ~~correct; provided that the director of health may~~  
20 ~~further investigate and require additional~~



1 ~~information that the director deems necessary,~~  
2 ~~or~~]:

3 (A) An affidavit from a licensed medical provider or  
4 licensed mental health provider attesting that  
5 the current birth certificate record does not  
6 align with the birth registrant's gender identity  
7 and that in the provider's professional opinion  
8 the birth registrant's sex designation should be  
9 changed accordingly; and

10 (B) A copy of an order from the circuit court of the  
11 jurisdiction in which the birth registrant  
12 resides, granting a petition for a new birth  
13 certificate and stating that it finds the  
14 affidavit required under subparagraph (A) to have  
15 been legitimately issued. The court shall waive  
16 a hearing unless it finds that the affidavit  
17 raises significant concerns as to the  
18 qualifications of the licensed medical provider  
19 or licensed mental health provider, or the  
20 authenticity of the document, or both; or



1 (5) Upon request of a law enforcement agency certifying  
2 that a new birth certificate showing different  
3 information would provide for the safety of the birth  
4 registrant; provided that the new birth certificate  
5 shall contain information requested by the law  
6 enforcement agency, shall be assigned a new number and  
7 filed accordingly, and shall not substitute for the  
8 birth registrant's original birth certificate, which  
9 shall remain in place.

10 (b) When a new certificate of birth is established under  
11 this section, it shall be substituted for the original  
12 certificate of birth. The new certificate shall not be marked  
13 as amended and shall in no way reveal the original language  
14 changed by any amendment. Thereafter, the original certificate  
15 and the evidence supporting the preparation of the new  
16 certificate shall be sealed and filed. [~~Such~~] The sealed  
17 [document] documents shall be opened only by an order of a court  
18 of record[?] or, for those documents amended pursuant to  
19 subsection (a)(4), by request of the birth registrant.

20 (c) If a new certificate of birth is established under  
21 subsection (a)(4), it shall reflect, or shall be reissued to



1 reflect, any legal name change made before, simultaneously, or  
2 after the change in sex designation; provided appropriate  
3 documentation of the name change is submitted.

4 (d) If a new certificate of birth is established under  
5 subsection (a)(4), the department shall not require any  
6 additional medical information or records other than those  
7 required by subsection (a)(4)."

8 SECTION 2. The supreme court shall adopt rules and forms  
9 as necessary to effectuate the purposes of this Act.

10 SECTION 3. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect on July 1, 2050.



**Report Title:**

New Birth Certificate; Sex Designation

**Description:**

Establishes the documentation required when requesting the Department of Health to issue a new birth certificate with a sex designation change. Effective 7/1/2050. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

